



Statement Déclaration

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CANADIAN SCIENTISTS TAKE IMPORTANT STAND: CRIMINAL LAW CURRENTLY GOES TOO FAR IN PROSECUTING HIV NON-DISCLOSURE

Human rights organizations applaud expert consensus statement

Toronto, May 2, 2014 — This morning, more than 70 scientific experts Canada-wide released an important consensus statement outlining the low-to-zero possibility of a person living with HIV transmitting the virus in various situations. The statement was developed out of a concern that “a poor appreciation of the scientific understanding of HIV and its transmission” is contributing to the overly broad use of criminal charges against people for alleged non-disclosure of HIV status.

The Canadian HIV/AIDS Legal Network, the HIV & AIDS Legal Clinic Ontario (HALCO), la Coalition des organismes communautaires québécois de lutte contre le VIH/sida (COCQ-SIDA) and the Ontario Working Group on Criminal Law and HIV Exposure applaud this consensus statement. Grounded in a comprehensive review of the most recent and relevant scientific evidence, **the statement confirms that current Canadian law is going too far and ignoring the science.** We welcome scientific experts speaking out against the many unjust prosecutions against HIV-positive people that we are seeing in Canada, which have too often resulted in draconian sentences for conduct that posed no significant risk of transmitting the virus.

In 2012, we expressed our deep disappointment with the decisions of the Supreme Court of Canada in the cases of *R. v. Mabior* and *R. v. D.C.* Under these rulings, people living with HIV can be sent to jail and registered as sexual offenders for life for not disclosing their status even if they have used a condom or had an undetectable or low viral load, had no intent to harm and indeed did not transmit HIV. We characterized these decisions as being unfair, harmful to both individual and public health, and at odds with the science. Since these rulings, we have witnessed trial judges struggling with the difficulties they pose, particularly when this overly broad approach contradicts the scientific evidence.

Today, scientists themselves have detailed their concerns with the continued overuse of some of the most serious charges in the Criminal Code in circumstances in which prosecutions are entirely unjustified. In the consensus statement released today, scientists have sent a strong message to Crown prosecutors and judges calling for restraint.

Indeed, scientists' assessment of the evidence supports our long-standing call for, at most, an extremely limited use of the criminal law. Among other things, the science supports the position that people who practice safer sex (e.g., by using a condom) or who are under effective antiretroviral therapy should not be prosecuted or convicted for HIV non-disclosure. Prosecuting people in such circumstances runs counter to available scientific evidence showing that the risk of transmission is negligible or even nil. Such misuse of the criminal law does nothing to help curb the HIV epidemic and drives people further away from effective HIV prevention, care, treatment and support services.

We welcome the stand taken today by medical experts and scientists from all across Canada and endorsed by the Association of Medical Microbiology and Infectious Disease Canada. It is time for the Canadian criminal justice system to take into account what the science tells us about HIV and its transmission; this evidence cannot be legitimately disregarded.

To read the full consensus statement, please visit the *Canadian Journal of Infectious Diseases & Medical Microbiology* at <http://www.pulsus.com/cjidmm> (available at 10:00 a.m. EDT).

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